IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15028 of 2005

Between:

Pilla Satyanarayana Murthy S/o Late Pilla China Paradeshi Naidu
R/o Santhoshimata Street, Gavarapalem, Anakapalle (PO) Visakhapatnam District

..... PETITIONER

AND

1 The District Collector, Visakhapatnam
2 The Special Deputy Collector Land Acquisition, APIIC., Special Economic Zone, Unit-I, Visakhapatnam
3 Pilla Bhasakara Rao S/o Late Bala Ramaswamy Naidu
Gavarapalem, Anakapalle (PO), Visakhapatnam District
4 Pilla Paradesi Naidu S/o Late Balaramaswamy Naidu
Gavarapalem, Anakapalle (PO), Visakhapatnam District
5 Pilla VEnkata Rao S/o Late Bala Ramaswamy Naidu
Gavarapalem, Anakapalle (PO), Visakhapatnam District
6 Pilla Kondayyanaidu S/o Late Bala Ramaswamy Naidu
Gavarapalem, Anakapalle (PO), Visakhapatnam District
7 Maddila Chinna Rao S/o Late Appanna
R/o Moturupalem Village, Rambilli Mandal, Visakhapatnam District
8 Matcha Babu Rao S/o Satya Rao
R/o Moturupalem Village, Rambilli Mandal, Visakhapatnam District
9 Plagam Veeraraghava Reddy S/o Ammireddi
R/o Moturupalem Village, Rambilli Mandal, Visakhapatnam District
10 Yendamuri Sanjeeva rao S/o Venkata Rao
R/o D. NO. 26-24-10, Chaitanyanagar Gajuwaka, Visakhapatnam

11 Yendamuri Venkata Durga Prasanna W/o Sanjeeva RAo
R/o D. NO. 26-24-10, Chaitanyanagar Gajuwaka, Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction in the nature of Mandamus declaring the inaction of the respondents 1 and 2 in not referring the proceedings in Rc. NO. 2947/2005/G2 dated 19-6-2005 under Section 30 of Land Acquisition ACt to competent Civil Court as to determination of title of the petitioner in respect of 1/3rd share in Ac. 29.40 cents in Sy.No. 156/1 to 4 of Moturupalem vilalge, Rambilli Mandal Visakhapatnam District, as per the decree of Senior Civil Judge, Gajuwaka in O.S. No. 23 of 1999 dated 4-4-2000 and legal notice dated 27-1-2005 and 29-6-2005 as being illegla, unjust, arbitrary and the provisions of land Acquisition Act of 1984.

Counsel for the Petitioner: MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR LAND ACQUISITION

Counsel for the Respondent Nos.3 to 11: --

This Court at the admission stage made the following:

O R D E R:

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The petitioner seeks a Mandamus declaring the inaction of the respondents 1 and 2 in referring the proceedings, dated 19-06-2005, issued under Section 6 of the Land Acquisition Act, 1894, (hereinafter referred to as the Act) to the competent Civil Court for determination of the title of the petitioner in respect of 1/3rd share in Ac.29-40 cents in Survey No.156/1 to 4 of Moturupalem Village, Rambilli Mandal, Visakhapatnam District, as per the decree, dated 2906-2005, passed in O.S.No.23 of 1999, as illegal and arbitrary.

The case of the petitioner is that after the death of his father, himself and other legatees under the Will, dated 24-12-1971, filed O.S.No.23 of 1999 before the Court of the Senior Civil Judge, Gajuwaka, against one Mr. Pilla Balaramaswamy i.e., the father of the respondents 2 to 6 herein and others for partition of the plaint scheduled lands into three equal shares and for possession. The learned Judge passed a preliminary decree, dated 04-04-2000, in the suit and the said decree has become final and accordingly, the petitioner is entitled to 1/3rd share in Survey No.156 of Moturupalem Village along with other plaintiffs. While so, the petitioner filed O.S.No.26 of 1999 before the learned Judge against his brother Pilla Balaramaswamy Naidu and his sons i.e., the respondents 3 to 6 herein and others for recovery of a sum of Rs.4,77,309-98 towards compensation under the Act in respect of other lands and the suit was decreed. Aggrieved by the said decrees, the said Pilla Balaramaswamy Naidu and his sons preferred appeals-A.S.No.1790 and 1791 of 2000 before this Court, and a Division Bench of this Court dismissed the same. It is also stated that the petitioner, having come to know that the respondents 1 and 2 intend to acquire the land to an extent of Ac.29-40 cents in Moturupalem Village, Rambilli Mandal, Visakhapatnam District, in respect of which there is a preliminary decree, dated 04-04-2000, in O.S.No.23 of 1999, in his favour and others, issued a legal notice, dated 27-01-2005, informing them that his name should be shown as pattadar along with others in respect of the said land. However, in the impugned notice, dated 19-06-2005, issued under Section 6 of the Act, published in Eenadu Telugu Daily on 28-06-2005, the names of

the respondents 3 to 6 herein are shown as pattadars in respect of Survey No.156/1 to 4, ignoring his name. Then, the petitioner issued another legal notice dated 29-06-2005. However, the respondents 1 and 2 have taken no further steps. Hence, the present writ petition.

The learned Government Pleader submits that in pursuance of the impugned notice, dated 19-06-2005, the matter has been adjourned to 27-07-2005 for award enquiry, therefore, instead of directing to refer the matter to a competent Civil Court for adjudication, the respondents 1 and 2 may be directed to give a notice to the petitioner for allowing him to participate in the award enquiry to establish his title in respect of the land as claimed by him.

Having heard the learned counsel for the petitioner, the learned Government Pleader appearing for the respondents 1 and 2 and perused the material on record and in view of the facts and circumstances of the case, especially in view of the submission made by the learned Government Pleader, I deem it appropriate to direct the respondents 1 and 2 to issue a notice to the petitioner to participate in the award enquiry stated to be held on 27-07-2005.

The writ petition is accordingly disposed of directing the respondents 1 and 2 to issue a notice to the petitioner to participate in the award enquiry to be held on 27-07-2005 to prove his *bona fides* and in case the notice is not served on the petitioner before 27-07-2005 for any reason, the respondents are directed to allow him to participate in the award enquiry and pass appropriate orders. However, if the petitioner is aggrieved by the orders passed by the respondents 1 and 2, he is at liberty to assail the correctness of the same before the appropriate Forum. No costs.

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(ELIPE DHARMA RAO, J)

Date:13-07-2005

Note:

CC in three days.

B/o

ghn

To

1 The District Collector, Visakhapatnam
2 The Special Deputy Collector Land Acquisition, APIIC., Special Economic Zone, Unit-I, Visakhapatnam
3 Two CCs to the Government Pleader for GP FOR LAND ACQUISITION, High Court of A.P., Hyderabad. (O.U.T.)

4 Two CD copies.